

000844

# REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)

330

06/10

AC 2800804

TO:  
City Council2. FROM (ORIGINATING DEPARTMENT):  
Office of the Mayor

May 19, 2008

4. SUBJECT:  
Payment of fees to the firm of Butz Dunn & DeSantis, APC related to defense of the City in litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive, Risk Management file No. LP08-0543-0602.

5. PRIMARY CONTACT (NAME, PHONE &amp; MAIL STA.)

Greg Bych 619-236-6651 MS 51-B

6. SECONDARY CONTACT (NAME, PHONE &amp; MAIL STA.)

Dave Jarrell 619-533-4727 MS 9A

7. CHECK BOX IF REPORT TO  
COUNCIL IS ATTACHED ☐

## 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND	(See Attached)				9. ADDITIONAL INFORMATION / ESTIMATED COST:  \$ 250,000 Previously Authorized \$ 750,000 This Action \$ 1,000,000 Total
DEPT.	(See Attached)				
ORGANIZATION	(See Attached)				
OBJECT ACCOUNT	(See Attached)				
JOB ORDER	(See Attached)				
C.I.P. NUMBER	(See Attached)				
AMOUNT	\$1,000,000				

## 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	5-20-08	8	DEPUTY CHIEF	<i>[Signature]</i>	5/24/08
2				9	CFO	<i>[Signature]</i>	5/24/08
3	AUDITOR	<i>[Signature]</i>	5/20/08	10	COO	<i>[Signature]</i>	5/20/08
4	LIAISON OFFICE	<i>[Signature]</i>	5/28/08	11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	5-20-08
5	FINANCIAL MANAGEMENT	<i>[Signature]</i>	5/20/08	DOCKET COORD: <i>[Signature]</i> COUNCIL LIAISON: <i>[Signature]</i>			
6	PURCHASING	<i>[Signature]</i>	5/20/08	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> REFER TO: <i>[Signature]</i> COUNCIL DATE: 6/10/08			
7	EOCP	<i>[Signature]</i>	5/21/08				

11. PREPARATION OF:

☒ RESOLUTION(S)☐ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

1. Authorizing the Mayor to increase the contract amount with Butz Dunn & DeSantis, APC by \$750,000 for a total amount not to exceed \$1,000,000 pursuant to the attached schedule related to litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive.
2. Authorize the City Comptroller to appropriate and expend \$1,000,000 as reflect on the attached FTE schedule for the purpose of funding the contract with Butz Dunn & Desantis, APC.

11A. STAFF RECOMMENDATIONS:

Approve the resolution

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): District 2, Kevin Faulconer

COMMUNITY AREA(S): La Jolla/Mt. Soledad

ENVIRONMENTAL IMPACT: This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).

HOUSING IMPACT: None.

OTHER ISSUES: None

000646

EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO

DATE ISSUED: May 19, 2008 REPORT NO:  
ATTENTION: Council President and City Council  
ORIGINATING DEPARTMENT: Office of the Mayor  
SUBJECT: Payment of fees to the firm of Butz Dunn & DeSantis, APC  
related to defense of the City in litigation filed by  
homeowners in the vicinity of Soledad Mountain Road and  
Desert View Drive, Risk Management file No. LP08-0543-  
0602.  
COUNCIL DISTRICT(S): District 2, Kevin Faulconer  
CONTACT/PHONE NUMBER: Greg Bych 619-236-6651 / Dave Jarrell 619-533-4727

REQUESTED ACTION: Authorizing the Mayor to increase the contract amount with Butz Dunn & DeSantis, APC by \$750,000 for a total amount not to exceed \$1,000,000 pursuant to the attached schedule related to litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive.

STAFF RECOMMENDATION: Approve the resolution.

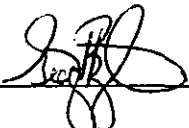
EXECUTIVE SUMMARY: In the latter part of 2007 a sudden natural event occurred in the vicinity of Soledad Mountain Road and Desert View Drive which resulted in significant damage to City infrastructure and private property. As a result of this occurrence numerous claims have been filed against the City as well as at least two (2) lawsuits. On October 9, 2007 the City Council authorized the Mayor to retain outside legal counsel to represent the City in regard to said claims and suits. As a result the City entered into a contract with the law firm of Butz Dunn & DeSantis, APC in the amount of \$250,000. The proposed action would authorize the Mayor's office to increase the contract amount for legal fees of Butz Dunn & Desantis in the amount not to exceed \$1,000,000.

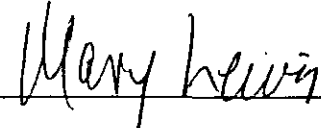
FISCAL CONSIDERATIONS: Payments will be made using the Fiscal Year 2008 FTE Cost Allocation Table; \$739,000 from General Fund and \$261,000 from Enterprise Funds.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: In Closed Session on October 9, 2007, by motion of District 7 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 7 and 8, Nays Districts 4 and 6 voted, with District 5 absent, to authorize the Mayor to retain outside counsel to represent the City.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: District 2 residents.

  
\_\_\_\_\_  
Risk Management Director

  
\_\_\_\_\_  
Chief Financial Officer

**The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

000348

**CERTIFICATE OF UNALLOTTED BALANCE**  
ORIGINATING

AC 2800804  
DEPT. \_\_\_\_\_  
NO. 10

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$1,000,000.00

Vendor: Butz Dunn & DeSantis

Purpose: Authorize the Mayor to execute a contract with above vendor for an amount not to exceed \$1,000,000 related to litigation filed by homeowners in the vicinity of Soledad Mountain Road and Desert View Drive. Authorize the City Comptroller to appropriate and expend \$1,000,000, as reflected on the FTE allocation schedule to fund the contract.

Date: May 20, 2008 By: *Pam Hallbert* 5/20/08

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
				SEE	ATTACHED					\$1,000,000.00
TOTAL AMOUNT										\$1,000,000.00

2008 FTE Allocation W/O MADS

Total Amount of AC/DP/Invoice:

\$ 1,000,000

Line	CY/PY	Fund	Dept	Department Name	Org	Account	Job Order	Percentage	Amount
001	0	81140	82240	Public Liability	--	4151	82240	73.90%	739,000.00
002	0	41400	730	Golf Course	100	4151	002150	0.89%	8,900.00
003	0	41200	750	Environmental Protection	1001	4151	001002	0.07%	700.00
004	0	41200	751	Waste Reduction & Enforcement	1002	4151	001500	0.35%	3,500.00
005	0	41200	752	Refuse Disposal	1000	4151	000110	0.77%	7,700.00
006	0	41200	753	Resource Management	010	4151	002000	0.16%	1,600.00
007	0	41200	754	Collection Services	020	4151	004229	0.08%	800.00
008	0	41210	755	Waste Reduction & Enforcement	1002	4151	001500	0.15%	1,500.00
009	0	41210	757	Collection Services	020	4151	004229	0.98%	9,800.00
010	0	41210	758	Environmental Protection	010	4151	001001	0.03%	300.00
011	0	41210	759	Resource Management	010	4151	002010	0.12%	1,200.00
012	0	41500	760	Water	163	4151	000163	7.91%	79,100.00
013	0	41506	776	MVWD-Administration	795	4151	776260	8.51%	85,100.00
014	0	41100	720	Airports	2000	4151	001101	0.18%	1,800.00
015	0	50050	850	ECP-Water & Sewer Design	2000	4151	085010	1.12%	11,200.00
016	0	50050	5431	E&CP Water Wastewater Field Eng.	100	4151	543100	0.42%	4,200.00
017	0	41300	1300	Developmental Service Enterprise	1111	4151	001110	4.36%	43,600.00
TOTAL								100.00%	1,000,000.00

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